

BEFORE THE UTAH SOLID AND HAZARDOUS WASTE CONTROL BOARD

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In the Matter of:	:	NOTICE OF VIOLATION
	:	COMPLIANCE ORDER
ATK Launch Systems Inc.	:	
Bacchus Works	:	
UTD001705029	:	<u>No. 0801004</u>

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This **NOTICE OF VIOLATION AND ORDER FOR COMPLIANCE (NOV/CO)** is issued by the UTAH SOLID AND HAZARDOUS WASTE CONTROL BOARD (the Board) pursuant to the Utah Solid and Hazardous Waste Act (the Act), 19-6-101, et seq., Utah Code Annotated 1953, as amended (UCA). The Board has delegated to the Executive Secretary authority to issue such **NOTICES AND ORDERS** in accordance with 19-6-107(7) of the Utah Code and R315-12-2.2(a) of the Utah Administrative Code.

FINDINGS

1. ATK Launch Systems Inc. (ATK) is a Delaware corporation licensed to do business in the State of Utah. ATK operates the Bacchus Works facility in West Valley City, Utah.
2. ATK is a "person" as defined in UCA 19-1-103(4) and is subject to all applicable provisions of the Utah Solid and Hazardous Waste Act and the Utah Administrative Code (the Rules).
3. ATK generates and stores characteristic and listed hazardous wastes as defined by R315-2 of the Rules. These wastes include, but are not limited to the following: D001, D002, D003, D004, D005, D006, D007, D008, D009, D010, D011, D018, D019, D021, D022, D028, D029, D035, D039, D040, F001, F002, F003, F004, F005, K044, P022, P056, U002, U003, U031, U044, U075, U080, U080, U112, U117, U147, U151, U154, U159, U161, U196, U201, U209, U210, U211, U213, U219, U220, U225, U226, U228, U239, U240, U244, U246, U328, and U359.
4. ATK operates the Bacchus Works which has interim status to store hazardous waste in containers and is subject to applicable generator and storage requirements of the Rules.
5. On December 6, 2007, ATK orally notified the Executive Secretary of the Board that it had been discharging photo processing waste to a septic system. This photo processing waste consists of a developer/fixer solution and coolant/rinse wastewater. The waste developer/fixer solution is a characteristic hazardous waste for silver (D011).
6. Subsequent to the oral notification to the Executive Secretary on December 6, 2007, ATK submitted a letter to the Executive Secretary dated December 12, 2007 which detailed the history of the discharge of photo processing waste to the septic system.
7. Authorized representatives of the Board conducted a Compliance Evaluation Inspection (CEI) of Building 2398 and an on-site evaluation of SS-3 on January 4, 2008.

8. R315-3-1.1(a) of the Rules states that no person shall own, construct, modify, or operate any facility for the purpose of treating, storing, or disposing of hazardous waste without first submitting, and receiving the approval of the Executive Secretary for a hazardous waste permit for the facility.

Based on a review of records maintained by the Division of Solid and Hazardous Waste (the Division) and ATK's oral and written notification of non-compliance with the Rules, it has been documented that ATK disposed of waste developer/fixer solution, a characteristic hazardous waste, by discharging it to SS-3 from 1997 until December 5, 2007 without a permit from the Executive Secretary.

9. R315-8-2 and 5 of the Rules identify plans, procedures and reports that the owner or operator must have when operating a hazardous waste disposal facility. The plans, procedures and reports, include, but are not limited to, a general waste analysis plan, facility security, an inspection plan, a personnel training program, an operating record and biennial reporting.

Based on the CEI and review of Division records, it was documented that ATK does not have an inspection plan or inspection records for SS-3, has no operating record for SS-3, and has not submitted any biennial reports on the operation of SS-3.

10. R315-8-6 of the Rules requires that the owners or operators of facilities that dispose of hazardous waste by applying it to the land have a groundwater monitoring program designed to detect a release of hazardous waste or hazardous waste constituents from the regulated unit.

Based on the CEI, it was documented that ATK does not have a groundwater monitoring program sufficient to detect a release of hazardous waste or hazardous waste constituents from SS-3.

11. R315-8-7 and 8 of the Rules require that the owner or operator of a hazardous waste disposal facility have a closure plan for each regulated unit, a cost estimate for the closure of each unit and financial assurance that demonstrates that the owner or operator has the necessary funds for the closure and post-closure care of the regulated unit.

Based on a review of Division records, it was documented that ATK does not have a closure plan, a closure cost estimate or financial assurance for SS-3.

12. R315-13 of the Rules incorporates by reference the Land Disposal Restrictions (LDR) of 40 CFR 268. These restrictions prohibit land disposal of hazardous wastes that do not meet certain treatment standards.

Based on ATK's disclosure of December 6, 2007, it was documented that ATK disposed a waste developer/fixer solution by discharging it to SS-3 between 1997 and December 5, 2007. The waste developer/fixer solution is a characteristic hazardous waste for silver (D011). Analytical data for this waste documented that the silver concentration is 487 mg/l. The applicable LDR treatment standard (40 CFR 268.40) for silver is 0.43 mg/l.

DETERMINATION OF VIOLATIONS

Based on the foregoing **FINDINGS**, ATK has violated provisions of the Rules applicable to its facility. Specifically, ATK has violated the following regulations:

1. R315-3-1.1(a) of the Rules by operating a hazardous waste disposal facility (SS-3) without first submitting, and receiving the approval of the Executive Secretary for a hazardous waste permit for the facility.
2. R315-8-2 and 5 of the Rules by operating a facility (SS-3) without an inspection plan or records, without an operating record and without filing the required biennial reports.
3. R315-8-6 of the Rules by operating a hazardous waste disposal facility (SS-3) without having a groundwater monitoring program designed to detect a release of hazardous waste or hazardous waste constituents from the disposal unit.
4. R315-8-7 and 8 of the Rules by operating a hazardous waste disposal facility (SS-3) without having a closure plan, a cost estimate for the closure of the facility or financial assurance.
5. R315-13 of the Rules [40 CFR 268] by disposing a restricted hazardous waste in a land disposal unit (SS-3) without first meeting the required treatment standard.

ORDER

Based on the foregoing **FINDINGS** and **VIOLATIONS** and pursuant to Sections 19-6-107 and 112 of the Utah Code Annotated, ATK is hereby **ORDERED** to:

1. Immediately initiate all actions necessary to achieve total compliance with all applicable provisions of the Utah Administrative Code.
2. Immediately cease and desist the discharge of all hazardous wastes to SS-3.
3. Notify the Executive Secretary in writing within 14 days of the effective date of this NOV/CO, of ATK's intent to comply with this **ORDER** and indicate how compliance is to be achieved.
4. Within 30 days of receipt of this NOV/CO, submit to the Executive Secretary a schedule of when ATK will cease all wastewater discharges to SS-3.
5. Within 30 days of the receipt of this NOV/CO, submit to the Executive Secretary for approval, a closure plan for SS-3.
6. Within 30 days of the receipt of this NOV/CO, submit to the Executive Secretary a closure cost estimate for the closure of SS-3.
6. Within 60 days of the receipt of this NOV/CO, submit to the Executive Secretary an updated financial assurance mechanism which documents that ATK has allocated the funds commensurate with the closure cost estimate to cover the costs of closing SS-3.

COMPLIANCE, OPPORTUNITY FOR HEARING

This **NOTICE OF VIOLATION AND COMPLIANCE ORDER (NOV/CO)** is effective immediately and shall become final unless contested within thirty (30) days pursuant to R315-12-2.2(b) of the Rules. Section 19-6-113 of the Utah Code Annotated also provides that violators of the Solid and Hazardous Waste Act or any order, plan, rule or other requirement issued thereunder may be subject to a civil penalty of up to thirteen thousand (\$13,000) dollars per day for each day of violation.

Dated this _____ day of _____, 2008

By: _____
Dennis R. Downs, Executive Secretary
Utah Solid and Hazardous Waste Control Board